IN THE

Supreme Court of the United States

October Term, 1970

FILED
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No. 569

JOHN R. EARLEY, WILLIAM A. HANSON, MADELYN LAW, RALPH F. MCELROY, ALAN E. MOSS, FRANK J. SHEALEY, PHYLLIS A. WALTER, MARGARET-MARY CUMISKEY, and CORNELIUS A. CUMMISKEY,

Appellants,

v.

JOAN DICENSO, DONALD R. HILL, ANN CLANTON, ALICE CHASE, HELEN KING, and MARIE FRIEDEL,

Appellees.

No. 570

WILLIAM P. ROBINSON, JR., Commissioner of Education of the State of Rhode Island, RAYMOND H. HAWKSLEY, General Treasurer of the State of Rhode Island, and CHARLES W. HILL, Controller of the State of Rhode Island,

Appellants,

v.

JOAN DICENSO, DONALD R. HILL, ANN CLANTON, ALICE CHASE, HELEN KING, and MARIE FRIEDEL,

Appellees.

On Appeal from a Three-Judge United States District Court for the District of Rhode Island

MOTION FOR LEAVE TO FILE A JOINT BRIEF AS *AMICI CURIAE* ON BEHALF OF THE AMERICAN JEWISH COMMITTEE, AMERICAN JEWISH CONGRESS AND ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

SAMUEL RABINOVE
c/o American Jewish Committee
165 East 56th Street
New York, New York 10022

JOSEPH B. ROBISON
c/o American Jewish Congress
15 East 84th Street
New York, New York 10028

ARNOLD FORSTER
c/o Anti-Defamation League of B'nai B'rith
315 Lexington Avenue
New York, New York 10028
Attorneys for Amici

JOSEPH B. ROBISON
SOL RABKIN
MICHAEL BLINICK
Of Counsel

To:

RICHARD J. ISRAEL, Attorney General
State of Rhode Island & Providence Plantations
Providence County Court House
Providence, Rhode Island

EDWARD BENNETT WILLIAMS
Williams & Connolly
1000 Hill Building
Washington, D. C. 20006

Attorneys for Appellants

LEO PFEFFER
15 East 84th Street
New York, New York 10028

Attorney for Appellees

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The undersigned, as counsel for the American Jewish Committee, the American Jewish Congress and the Anti-Defamation League of B'nai B'rith move this Court for leave to file a joint brief as *amici curiae* in both the above-entitled cases.

Each of these organizations is concerned with the preservation of the security and constitutional rights of Jews in America through the preservation of the security and constitutional rights of all Americans. They are deeply committed to the belief that separation of church and state is the surest guarantee of religious liberty and has proved of inestimable value both to religion and to the American community generally. They submit this brief because they believe that the program of aid to nonpublic schools, including parochial schools, by means of payment of part of the salaries of teachers teaching in those schools as authorized in the statute under review is a form of aid to religious institutions from public funds, bringing in its train the very evils which the constitutional guarantee of separation of church and state was designed to prevent.

These organizations have consistently fought against any program which might involve diversion of public funds from our free public school system open to all to church-affiliated schools which have as a major goal the advancement of the religious beliefs of the sponsoring groups. They have also opposed use of public funds in aid of sectarian religious schools on the ground that such use of public funds would involve, as an inevitable concomitant, inequality of aid to the schools of the different religious sects and even to private schools, a violation of the guar-

antee of equality of treatment which is a minimum requirement of the religious clauses of the First Amendment which bar aid to one religion or preference of one religion over another. They also believe that another inevitable concomitant of allocation of public funds to religious schools is excessive government entanglement with religion which the Establishment Clause of the First Amendment prohibits. Finally, they believe that there will be no presentation in any of the other briefs of the arguments contained in this brief amicus directed primarily to the impact on minority religious groups of a system of state aid to parochial schools.

The attorney for the Appellees in these cases has consented to the filing of a brief *amicus curiae* by the organizations in whose behalf the attached brief amicus is offered. Attorney General Richard J. Israel of the State of Rhode Island & Providence Plantations has consented for the Appellants in the case of *Robinson* v. *DiCenso*. Mr. Edward Bennett Williams, attorney for the Appellants in *Earley* v. *DiCenso*, No. 569 had indicated that he cannot consent to the filing of a brief amicus by the sponsors of the brief so long as the American Jewish Congress is one of the participating organizations. He also stated that if the organizations sponsoring this motion should decide to seek permission to file the brief by a motion filed with the Supreme Court, he would not object to or oppose that motion on behalf of the Appellants in No. 569.

Because of our desire to comply with the practice of filing briefs amicus at a date no later than the date of required filing of the brief of the party in whose support the

brief amicus is submitted, we are attaching our brief amicus to this motion.

Respectfully submitted,

SAMUEL RABINOVE
American Jewish Committee
165 East 56th Street
New York, New York 10022

JOSEPH B. ROBISON
American Jewish Congress
15 East 84th Street
New York, New York 10028

ARNOLD FORSTER
Anti-Defamation League of B'nai B'rith
315 Lexington Avenue
New York, New York 10016

Attorneys for Amici

JOSEPH B. ROBISON
SOL RABKIN
MICHAEL BLINICK
Of Counsel

Dated: February 1, 1971